

**Notice of Allowability**

Application No.

10/722,451

Applicant(s)

BOUGARET ET AL.

Examiner

Renee Claytor

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to remarks filed 7/17/2007.

2. ☒ The allowed claim(s) is/are 32 and 33.

(renumbered as 1 and 2)

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_

4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eugene Perez on 9/25/2007.

#### **The application has been amended as follows:**

##### IN THE CLAIMS

- 1). In claim 32, in line 1, **delete** "polymeric" and **substitute** with "polymorphic".
- 2). In line 2 of claim 32, after "specific peaks at" **delete** "about".
- 3). In line 6 of claim 32, after "degrees  $\theta$ ", **add** ", and the differential thermal analysis thermogram exhibiting a single maximum value at approximately  $207.5 \pm 0.2$ ".
- 4). In claim 33, in line 1, **delete** "polymeric" and **substitute** with "polymorphic".
- 5). In line 2 of claim 33, after "specific peaks at" **delete** "about".
- 6). In line 4 of claim 33, after "one peak at" **delete** "about".
- 7). In line 6 of claim 33, after "degrees  $\theta$ ", **add** ", and the differential thermal analysis thermogram exhibiting a single maximum value at approximately  $207.5 \pm 0.2$ ".
- 8). **Delete** claim 34.

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**TITLE**

1). **Delete** "Pharmaceutical composition based on idazoxan, salts, hydrates or polymorphs thereof" and **insert** the following new and more descriptive title:  
"Pharmaceutical composition based on a polymorphic form I of idazoxan".

**Reasons for Allowance**

The following is an examiner's statement of reasons for allowance: claims 32-33 are allowable over the prior art, as the prior art neither teaches or suggests a polymorphic form of idazoxan with X-Ray spectra at the specific claimed peaks or the differential thermal analysis as claimed.

The closest prior art is Chapleo et al. (US Patent 4,818,764), which teaches pharmaceutical compositions comprised of idazoxan hydrochloride together with pharmaceutically acceptable diluents or carriers. However, Chapleo et al. does not teach the polymorphic form I of idazoxan.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor

  
SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER